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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 PHILIP MINOR,

11 Petitioner,

12 vs.

13 BRIAN WILLIAMS, *et al.*,

14 Respondents.
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Case No. 2:15-cv-02005-RFB-PAL

ORDER

17 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254
18 by a Nevada state prisoner.

19 Petitioner has filed a motion to proceed *in forma pauperis*. (ECF No. 1). Based on the
20 information regarding petitioner's financial status, the Court finds that the motion to proceed *in forma*
21 *pauperis* should be granted.

22 Petitioner has filed a motion for the appointment of counsel. (ECF No. 2). Pursuant to 18
23 U.S.C. § 3006A(2)(B), the district court has discretion to appoint counsel when it determines that the
24 “interests of justice” require representation in a habeas corpus case. Petitioner has no constitutional
25 right to appointed counsel in a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551,
26 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is
27 within the Court’s discretion. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481
28 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984).

1 However, counsel must be appointed if the complexities of the case are such that denial of counsel
2 would amount to a denial of due process. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*,
3 423 F.2d 948 (8th Cir. 1970).

4 The federal habeas petition submitted in this action includes many claims, the contents of which
5 suggest that it may be a relatively complex action. In the underlying state criminal case, petitioner was
6 convicted of first degree murder and was sentenced to imprisonment for life without the possibility of
7 parole. The Court grants petitioner's motion for the appointment of counsel.

8 Therefore, the Federal Public Defender for the District of Nevada (FPD) shall be appointed to
9 represent petitioner. If the FPD is unable to represent petitioner, due to a conflict of interest or other
10 reason, then alternate counsel for petitioner shall be located, and the Court will enter a separate order
11 appointing such alternate counsel. In either case, counsel will represent petitioner in all future federal
12 proceedings relating to this matter (including subsequent actions) and appeals therefrom, unless allowed
13 to withdraw.

14 **IT IS THEREFORE ORDERED** that petitioner's motion to proceed *in forma pauperis* (ECF
15 No. 1) is **GRANTED**. The Clerk of Court shall **FILE** the petition.

16 **IT IS FURTHER ORDERED** that petitioner's motion for the appointment of counsel (ECF
17 No. 2) is **GRANTED**. The Federal Public Defender is appointed to represent petitioner.

18 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL ELECTRONICALLY**
19 **SERVE** the Federal Public Defender for the District of Nevada (FPD) with a copy of this order,
20 together with a copy of the petition for writ of habeas corpus.

21 **IT IS FURTHER ORDERED** that, within **thirty (30) days** from the date of entry of this order,
22 the FPD shall undertake direct representation of petitioner by filing a notice of appearance or indicate
23 to the Court its inability to represent petitioner in these proceedings.

24 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL** add Nevada Attorney General
25 Adam Paul Laxalt to the CM/ECF docket sheet and **SHALL ELECTRONICALLY SERVE** the
26 respondents with a copy of this order. Respondents' counsel **SHALL ENTER** a notice of appearance
27 herein within **ten (10) days** of entry of this order. Respondents need take no action on the petition until
28 this Court enters a further scheduling order.

1 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL SEND** a copy of this order to
2 the CJA Coordinator.

3 **IT IS FURTHER ORDERED** that, after counsel has appeared for petitioner in this case, the
4 Court will issue a scheduling order, which will, among other things, set a deadline for the filing of a first
5 amended petition.

6 Dated this 13th day of September, 2016.
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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE